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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,878	09/30/2003	William M. Smith	74088-002	6791
29493 7590 01/11/2007 HUSCH & EPPENBERGER, LLC 190 CARONDELET PLAZA SUITE 600 ST. LOUIS, MO 63105-3441			EXAMINER LOWE, MICHAEL S	
			ART UNIT 3652	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/675,878	Applicant(s) SMITH, WILLIAM M.	
	Examiner M. Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15,24-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

The disclosure is objected to because of the following informalities:

Page 11 states on lines 10 and 23 that item 438 is a wheel support arm while line 21 states item 438 is a mounting brackets.

Page 13 states on line 22 that item 836 is a first momentary switch and on line 23 that it is a second momentary switch.

Page 14, line 1 states item 32 is an LED but it appears from line 2 that applicant meant 832 not 32.

Appropriate correction is required.

Applicant's amendment is noted but is not in the proper format. The page and line numbers used are not accurate and instead applicant should resubmit the changes with something like "Replace the following paragraph starting on page XX, line XX as follows:" in order the changes be made clear to the printer.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4,5,7,9-14,24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Williamson (US 3,012,682).

Re claim 1, Williamson teaches an inclining trailer 10, comprising
a bed 12;
a hitch 108 attached to said bed;
at least one wheel support arm (22,23,24,etc.) having a first end in direct pivotal engagement with said bed and a second end operatively engaged with an axle 28 for a wheel 30;
said at least one support arm having a first position relative to said bed wherein said bed is substantially level and said at least one support arm having at least one other position wherein said bed is inclined;
an actuator 40, said actuator being engaged with said at least one support arm and with said bed 21 such that said actuator mediates travel of said support arm between said first position and said at least one other position, and
a connecting link 26, said connecting link connecting said at least one support arm (22,23,24,etc.) to at least one other support arm 32, said connection being away from the axle of at least one wheel, said at least one other support arm being on the same side of the trailer as said at least one support arm, said connecting link moving said at least one other support arm between a first and second position when said at least one support arm is moved between said first position and said second position.

Re claims 2,14, Williamson teaches said hitch 108 is a tongue-type hitch.

Re claim 4, Williamson teaches a reverse beaver tail bed portion (not numbered).

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Re claims 5,7,25, Williamson teaches the actuator 40 may be pneumatic or hydraulic (column 2, line 60).

Re claims 9,13, Williamson teaches an inclining trailer 10 having a front and a rear, comprising:

a frame 12 having a first side member, a second side member, and at least one cross-member interconnecting said first side member and said second side member;

a hitch 108 attached to said frame at the front;

a rotating member 16,18 pivotally connected to said frame 12 between the front and the rear,

said rotating member 16,18 having a first end, and a second end;

a first wheel support arm (22,23,24,etc.) operatively connected directly to said first end of said rotating member, said first wheel support arm having a proximate end and a distal end;

a second wheel support arm (22,23,24,etc.) (other side) operatively connected to said second end of said rotating member, said second wheel support arm having a proximate end and a distal end;

an axle 28 located at said distal end of each wheel support arm;

a wheel 30 operatively connected to each axle;

an actuator 40 for rotating said rotating member, said actuator operatively engaged with at least one of said wheel support arms and with said frame, whereby said frame is correspondingly inclined or declined;

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at least one shoe 22 (figure 3) for ground engagement located vertically below said frame 12 and longitudinally between said wheels (rear wheels) and the front; and a connecting link 26, said connecting link connecting said at least one support arm (22,23,24,etc.) to at least one other support arm 32, said connection being away from the axle of at least one wheel, said at least one other support arm being on the same side of the trailer as said at least one support arm, said connecting link moving said at least one other support arm between a first and second position when said at least one support arm is moved between said first position and said second position.

Re claim 10, Williamson teaches said at least one shoe 22 is operatively connected to said frame.

Re claim 11, Williamson teaches said at least one shoe 22 is integral with at least one of said first and second wheel support arms.

Re claim 12, Williamson teaches said at least one shoe 22 is operatively connected to said rotating member 16,18.

Re claim 24, Williamson teaches a trailer comprising:

a frame 12;

two wheels 30 on each side of said frame, each wheel being mounted on a wheel support arm (22,23,24,etc.) at a first end portion of said wheel support arm, and said wheel support arm being pivotally mounted to the frame at a second end portion of said wheel support arm:

an extension (32 or the extended edge of the support arms themselves read on this) on each of said wheel support arms (22,23,24,etc.) on at least one side of said frame 12;

a connecting link 26 pivotally attached at each end portion of said connecting link to each of said extensions on said support arms on at least one side of said frame;

an actuator 40 mounted to said frame, said actuator being operatively engaged with said connecting link such that actuation of movement of said connecting link, through said connecting link's pivotal attachment with said support arm extensions, changes a position of said frame relative to said wheels.

Re claim 26, Williamson teaches said actuator pivotally engaged with one of said end portions of said connecting link 26.

Re claim 27, Williamson teaches said actuator 40 pivotally engaged with one of said extensions of said support arms (22,23,24,etc.).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williamson (US 3,012,682) in view of Cash (US 5,967,733).

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Re claims 3,15 Williamson has a hitch 108 but is silent regarding a gooseneck-type hitch. Cash teaches that gooseneck-type hitches are well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Williamson by Cash to have a gooseneck-type hitch in order to allow the trailer to be pulled by vehicles requiring a gooseneck-type hitch connection.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williamson (US 3,012,682).

Re claim 6, Williamson teaches actuator 40 but is silent regarding a linear drive motor actuator. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Williamson to have the actuator be any equivalent well known type of actuator such as pneumatic, hydraulic or a linear drive motor, in order to use a ease maintenance and supply concerns.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williamson (US 3,012,682) in view of Collins (US 6,135,700).

Re claim 8, Williamson does not teach a hydraulic pump. Collins teaches a hydraulic pump 90 operatively mounted on the frame. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified to have modified Williamson by Collins to have a hydraulic pump operatively mounted on the frame in order to provide a nearby hydraulic power source for the actuator.

Conclusion

Applicant's arguments filed 10/5/06 have been fully considered but they are not persuasive.

Applicant argued that the amendments to the specification corrected the problems. As noted above the format and lines and page numbers need adjusting so that the changes will be clear to the printer.

Applicant argued that the addition of the word "direct" to the limitations overcomes the '700'. This is not the case since Collins (US 6,135,700) is merely a teaching reference for the hydraulic pump and primary reference Williamson still meets the claims.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argued that Williamson does not teach the claimed connecting link. However, as newly detailed in the above rejections, Williamson reads on the claims as currently written.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within


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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-W; Th work offsite.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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